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IDAHO LEGISLATURE

SECOND REGULAR SESSION
FIFTY-NINTH LEGISLATURE

TWENTY-THIRD LEGISLATIVE DAY
TUESDAY, JANUARY 29, 2008

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 10:30 a.m.

Roll call showed all members present except Senators Pearce and Stennett, absent and formally excused by the Chair; and Senators McKenzie and Stegner, absent and excused.

Prayer was offered by Chaplain Goebel.

The Pledge of Allegiance was led by Jacob Reyes, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of January 28, 2008, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions and Memorials

SJM 109

BY EDUCATION COMMITTEE

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-ninth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Maintenance of Effort (MOE) provision in Section 108 of the College Opportunity and Affordability Act of 2007 (H.R. 4137) now before the United States House of Representatives would punish states for not maintaining or increasing higher education funding appropriations; and

WHEREAS, this would place the federal government in charge of determining when state legislatures and governors have adequately funded higher education; and

WHEREAS, this mandate in higher education would set a dangerous precedent for federal intrusion into state policy and appropriations authority; and

WHEREAS, state legislators are also concerned with the rising cost of higher education and are committed to making higher education affordable for all citizens; and

WHEREAS, state budgeting decisions should be made by state officials, not the United States Secretary of Education.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that Congress should strike Section 108 from the College Opportunity and Affordability Act of 2007 (H.R. 4137) before sending the final bill to the President of the United States to sign into law.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

SJM 109 was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

January 29, 2008

The JUDICIARY AND RULES Committee reports that **S 1346, S 1347, S 1348, S 1349, S 1350, S 1351**, and **SCR 124** have been correctly printed.

DARRINGTON, Chairman

S 1346 and **S 1347** were referred to the Finance Committee.

S 1348 was referred to Resources and Environment Committee.

S 1349 and **S 1350** were referred to Judiciary and Rules Committee.

S 1351 was referred to State Affairs Committee.

SCR 124 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

January 28, 2008

The RESOURCES and ENVIRONMENT Committee reports out **S 1265, S 1267, S 1268, and S 1269** with the recommendation that they do pass.

SCHROEDER, Chairman

S 1265, S 1267, S 1268, and S 1269 were filed for second reading.

January 28, 2008

The JUDICIARY and RULES Committee reports out **S 1260, S 1274, and S 1273** with the recommendation that they do pass.

DARRINGTON, Chairman

S 1260, S 1274, and S 1273 were filed for second reading.

January 29, 2008

The FINANCE Committee reports out **S 1346 and S 1347** with the recommendation that they do pass.

CAMERON, Chairman

S 1346 and S 1347 were filed for second reading.

Senator Stegner was recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

January 28, 2008

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that I have appointed Jon Thorson of Sun Valley, Idaho, to be Acting State Senator for Legislative District 25. This appointment will be effective January 29, 2008, and continue until such time as Senator Clint Stennett is able to resume his duties.

As Always - Idaho, *Esto Perpetua*
/s/ C. L. 'Butch' Otter
Governor

THE OFFICE OF THE GOVERNOR
EXECUTIVE DEPARTMENT
BOISE, IDAHO
CERTIFICATE OF APPOINTMENT

KNOW ALL MEN, by these Presents that pursuant to the provisions of Section 59-917, *Idaho Code*, Clint Stennett, State

Senator, District 25, Blaine, Camas, Lincoln, and Gooding Counties, State of Idaho, has nominated Jon Thorson of Sun Valley, Idaho, to perform the duties of this office temporarily as Acting State Senator, District 25, Blaine, Camas, Lincoln, and Gooding Counties.

NOW, THEREFORE, I, C. L. 'Butch' Otter, Governor of the State of Idaho, by virtue of the authority vested in me do hereby appoint Jon Thorson to the office of State Senator, District 25, Blaine, Camas, Lincoln, and Gooding Counties, State of Idaho, for a term commencing on January 29, 2008, and continuing until such time as Senator Clint Stennett is able to resume his duties.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho.

Done at Boise, the Capital of Idaho, this twenty-eighth day of January, in the year of our Lord Two thousand and eight and of the Independence of the United States of America, the two hundred and thirty-second year.

/s/ BY THE GOVERNOR C. L. 'BUTCH' OTTER
/s/ SECRETARY OF STATE BEN YSURSA

The correspondence and Certificate of Appointment were ordered filed in the office of the Secretary of the Senate.

The President Pro Tempore announced that the Oath of Office had been administered previously to Acting Senator Jon Thorson, and he was recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1352

BY RESOURCES AND ENVIRONMENT COMMITTEE AN ACT

RELATING TO WATER; AMENDING SECTION 42-1414, IDAHO CODE, TO REVISE FEE PROVISIONS FOR FILING NOTICE OF CLAIMS WITH THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES.

S 1353

BY RESOURCES AND ENVIRONMENT COMMITTEE AN ACT

RELATING TO WATER; AMENDING SECTION 42-701, IDAHO CODE, TO PROVIDE THAT ALL DOMESTIC USES AND ALL STOCK WATERING USES SHALL BE EXEMPT FROM ALL MEASURING DEVICE INSTALLATION AND MAINTENANCE, MEASURING AND REPORTING RELATING TO MEASURING REQUIREMENTS.

S 1354

BY RESOURCES AND ENVIRONMENT COMMITTEE AN ACT

RELATING TO WATER RIGHTS ADJUDICATIONS; AMENDING SECTION 42-1406B, IDAHO CODE, TO DELETE REFERENCE TO ALL USERS OF SURFACE AND GROUND

WATER IN NORTHERN IDAHO, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES IS AUTHORIZED TO PETITION THE DISTRICT COURT TO COMMENCE CERTAIN ADJUDICATIONS AND TO PROVIDE THAT PETITIONS TO INITIATE CERTAIN WATER RIGHTS ADJUDICATIONS IN NORTHERN IDAHO SHALL INCLUDE SPECIFIED REQUESTS; AND DECLARING AN EMERGENCY.

S 1355

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO EXEMPTIONS FROM ATTACHMENT OR LEVY; AMENDING SECTION 11-605, IDAHO CODE, TO INCREASE THE MAXIMUM VALUE OF A MOTOR VEHICLE THAT SHALL BE EXEMPT FROM ATTACHMENT OR LEVY.

S 1356

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO COUNTY SHERIFFS; AMENDING SECTION 34-618, IDAHO CODE, TO REVISE QUALIFICATION PROVISIONS AND TO PROVIDE FOR CERTAIN TRAINING FOLLOWING ELECTION TO THE OFFICE OF SHERIFF FOR THE FIRST TIME.

S 1357

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO FALSE PRETENSES AND MISREPRESENTATIONS; AMENDING SECTION 18-3126, IDAHO CODE, TO REVISE THE PROHIBITION AGAINST MISAPPROPRIATION OF PERSONAL IDENTIFYING INFORMATION.

S 1352, S 1353, S 1354, S 1355, S 1356, and S 1357 were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1261, S 1262, and S 1263, by Judiciary and Rules Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

S 1247 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Jorgenson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Thorson (Stennett), Werk. Total - 33.

NAYS--None.

Absent and excused--McKenzie, Pearce. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1247** passed, title was approved, and the bill ordered transmitted to the House.

S 1248 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Thorson (Stennett), Werk. Total - 33.

NAYS--None.

Absent and excused--McKenzie, Pearce. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1248** passed, title was approved, and the bill ordered transmitted to the House.

S 1288 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Thorson (Stennett), Werk. Total - 33.

NAYS--None.

Absent and excused--McKenzie, Pearce. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1288** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Langhorst, by voice vote the Senate adjourned at 11:06 a.m. until the hour of 11:00 a.m., Wednesday, January 30, 2008.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary